CONSULTANT SERVICE AGREEMENT
BETWEEN THE CITY OF SUNNYVALE AND
HIGH LINE CORPORATION FOR PAYROLL SYSTEM APPLICATION
UPGRADE AND IMPLEMENTATION SERVICES

THIS AGREEMENT dated September   23   , 2002, is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and HIGH LINE CORPORATION, a Canadian corporation ("CONSULTANT").

WHEREAS, CITY desires to secure professional services necessary for the upgrade and implementation of its human resources/payroll application; and

WHEREAS, CONSULTANT possesses the professional qualifications and expertise to provide the required services;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

1.   Services by CONSULTANT

CONSULTANT shall provide services in accordance with Exhibit "A" entitled "P2K Upgrade Cost Proposal" and Exhibit "B" entitled "Personality Implementation Plan". All exhibits referenced in this Agreement are attached and incorporated by reference. To accomplish that end, CONSULTANT assigns Brian Diamond, Director, Professional Services, to this project, to act in the capacity of Project Manager and personally direct the professional services to be provided by CONSULTANT.

2.   Time for Performance

The term of this Agreement shall be from August 28, 2002 to June 30, 2003 unless otherwise terminated. CONSULTANT shall deliver the agreed upon services to CITY as specified in Exhibit "A" and Exhibit "B". CITY may grant extensions of time upon a showing of good cause.

3.   Duties of CITY

CITY shall supply any documents or information available to City required by CONSULTANT for performance of its duties. Any materials provided shall be returned to CITY upon completion of the work.

4.   Payment of Fees and Expenses

Payments shall be made to CONSULTANT based upon the completion of the milestones as set forth in Exhibit "A". In no event shall the total amount of compensation payable under this Agreement exceed the sum of One Hundred Seventy-Eight Thousand Two Hundred Fifty and 00/100 Dollars ($178,250). CONSULTANT shall submit invoices to CITY no more frequently than monthly for milestones completed. Payment shall be made within thirty (30) days of receipt of an accurate, itemized invoice by CITY'S Accounts Payable Unit.

5. Ownership of Documents

The rights of CITY and CONSULTANT to the software and documents relating to this Agreement shall be as stated in the Software License Agreement dated September 23 , 2002 between CITY and HIGH LINE CORPORATION.

6. Conflict of Interest

No officer or employee of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement, CONSULTANT shall not accept employment or an obligation, which is inconsistent or incompatible with CONSULTANT'S obligations under this Agreement.

7. Confidential Information

All ideas, memoranda, specifications, plans, procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for CONSULTANT and all other written information submitted to CONSULTANT in connection with the performance of this Agreement shall be held confidential by CONSULTANT and shall not, without the prior written consent of CITY, be used for any purposes other than the performance of the Project services, nor be disclosed to an entity not connected with the performance of the Project services. Nothing furnished to CONSULTANT which is otherwise known to CONSULTANT or is or becomes generally known to the related industry shall be deemed confidential.

8. Compliance with Laws

(a)   CONSULTANT shall strictly adhere to all state and federal laws with respect to discrimination in employment and shall not discriminate against any individual on the basis of race, color, religion, gender, sexual orientation, marital status, national origin, age or disability.

(b)   CONSULTANT shall comply with all federal, state and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of the Agreement.

9. Independent Contractor

CONSULTANT is acting as an independent contractor in furnishing the services or materials and performing the work required by this Agreement and is not an agent, servant or employee of CITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between CITY and CONSULTANT. CONSULTANT is responsible for paying all required state and federal taxes.

10. Indemnity

CONSULTANT agrees to indemnify defend and hold harmless CITY and its officers, officials, employees and volunteers from and against claims, damages,

losses and expenses, including attorney fees, arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of CITY.

11. Insurance

CONSULTANT shall take out and maintain during the life of this Agreement policies of insurance as specified in Exhibit "C" attached and incorporated by reference, and shall provide all certificates and endorsements as specified in Exhibit "C".

12. CITY Representative

Cheryl Bunnell, as the City Manager's authorized representative, shall represent CITY in all matters pertaining to the services to be rendered under this Agreement. All requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the CITY representative.

13. CONSULTANT Representative

Brian Diamond shall represent CONSULTANT in all matters pertaining to the services and materials to be rendered under this Agreement. All requirements of CONSULTANT pertaining to the services or materials to be rendered under this Agreement shall be coordinated through the CONSULTANT representative.

14. Notices

All notices required by this Agreement shall be in writing and shall be personally delivered, sent by first class with postage prepaid, or sent by commercial courier, addressed as follows:

To CITY: Cheryl Bunnell, Manager, Applications Development
       Department of Information Technology
       CITY OF SUNNYVALE
       P. O. Box 3707
       Sunnyvale, CA 94088-3707

To CONSULTANT: Brian Diamond, Director, Professional Services
       HIGH LINE CORPORATION
       823 Alvarado Road
       Berkeley, CA 94705

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone, facsimile transmission or electronic mail, to accomplish timely communication. However, to constitute effective notice, written confirmation of a telephone conversation or an original of a facsimile transmission must be sent by first class mail or commercial carrier, or hand delivered. Each party may change the address by written notice in accordance with this paragraph. Notices

delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of two days after mailing, unless such date is a date on which there is no mail service. In that event, communication is deemed to occur on the next mail service day.

15. Assignment

Neither party shall assign or sublet any portion of this Agreement without the prior written consent of the other party.

16. Termination

If CONSULTANT defaults in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving written notice to CONSULTANT. If CITY fails to pay CONSULTANT, CONSULTANT at its option may terminate this Agreement if the failure is not remedied by CITY within thirty (30) days from the date payment is due.

Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY also shall have the right to terminate this Agreement for any reason upon ten (10) days' written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONSULTANT shall present CITY with any work product completed at that point in time.

17. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.
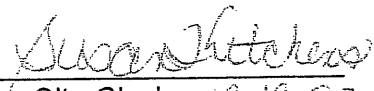
18. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. CONSULTANT shall not be responsible for delay or damages or be in default or deemed to be in default by reason of strikes, lockouts, accidents, or acts of God, or the failure of CITY to furnish timely information or to approve or disapprove CONSULTANT'S work promptly, or delay or faulty performance by CITY, other contractors, or governmental agencies, or any other delays beyond CONSULTANT'S control or without CONSULTANT'S fault. This Agreement shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement.

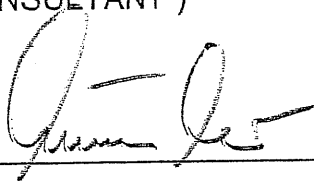ATTEST: CITY OF SUNNYVALE ("CITY")

By _____   By _____
        City Clerk   10-10-02   City Manager

                                           HIGH LINE CORPORATION
                                           ("CONSULTANT")

APPROVED AS TO FORM:

By _____   By _____
        City Attorney
                                           _____
                                           President
                                           Name and Title
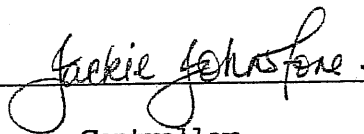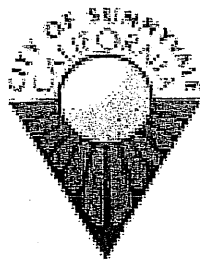
                                           By _____
                                           _____
                                           Controller
                                           Name and Title

EXHIBIT A

P2K UPGRADE COST PROPOSAL

Human Resources, Payroll and Time & Attendance Software

To

June 28, 2002

High Line Contacts:

Shannon Miller
(510) 649-1947
smiller@highlinecorp.com

Karl Niemuller
President
(800) 268-3340 x2224
kniemuller@highlinecorp.com

HIGH LINE CORPORATION
823 Alvarado Road
Berkeley, CA 94705

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1 Personality Cost Details

The following Cost Proposal details are based on the results of the Implementation Planning Session conducted May 7 – 9, 2002. Please refer to the Implementation Planning Session Report for details of the commitments on the part of High Line Corporation and the City of Sunnyvale.

We are prepared to commit to a not to exceed price contract, within the scope identified in the Implementation Planning Report, and the hours and costs proposed below. Any items not disclosed to High Line or documented in the planning Implementation Planning Report, are out of scope. We have included a contingency fund to address these types of items, if required.

1.1 Application Software Costs

There is a one-time upgrade fee of $20,000. There are no additional charges for the application software to upgrade from the version of Personality you are using to P2K, for all modules covered under maintenance. This includes the conversion tools to extract employee masterfile and payroll history information from the Image database, as well as programs to import this information into the P2K relational database.

The City has decided that they require the ability to tailor the Time Entry Screen provided with P2K. The cost of this feature, when purchased individually is $ 5,000.

In the future, if the City wishes to consider High Line's Web Self Service and Workflow modules, there is an additional fee of $10,000 for each.

1.2 Implementation Costs

Following the approach determined during our Implementation Planning Meeting, the following details the costs involved to upgrade to the current version of Personality.

ITEM	SERVICE	COST
Software Installation and Technical Training	3 Days	$ 3,000
Conversion Training and Mapping Assistance	Course + 2 Days	$ 5,000
Conversion Mapping/Troubleshooting Assistance	5 Days	$5,000
Discoverer Training and Set Up Assistance	5 Days	$5,000
Foundation (formerly Record Keeping and Position Control combined)	Course	$ 4,500
Payroll	Course	$ 4,500

Payroll Advanced	Course	$ 4,500
Benefits	Course	$ 4,500
Attendance	Course	$ 4,500
On-Site Troubleshooting and Set Up Assistance	10 Weeks	$45,000
Remote Technical Assistance for Go Live	6 Days	$5,400
Remote Project Account Management and Problem Resolution (Weekly Review Sessions)		$13,500
Total		$104,400

1.3   Oracle Licenses

High Line can provide all of the Oracle software needed for your installation and for the ongoing use of P2K through Oracle Application Specific Licenses. Application Specific Licenses give you the right to use the Oracle software with the P2K application specifically and add to the application as necessary to suite your needs.

Oracle Database Server licenses can be purchased as either Standard Edition or Enterprise Edition. The P2K application only requires the Oracle Database Server - Standard Edition. Enterprise Edition licenses will be quoted upon request.

P2K can run in either Client/Server mode or Browser mode. Browser mode allows you to run the full application over the web. Browser mode requires the Oracle Internet Application Server - Enterprise Edition. The City has decided to deploy in Client/Server mode only.

Oracle licenses can be purchased on a Named User or a Processor basis. The Named User basis is most economical for up to 50 users. The Processor basis provides you with an unlimited license for a single processor.

One copy of the Oracle Internet Developer Suite is also required to run the Personality application.

We are not providing quotes on the Oracle Internet Developer Suite or Database, as it is our understanding that the City has sufficient licensing already. We will need the City to provide us with their CSI number when we install P2K.

DISCOVERER END USER REPORT WRITER

High Line recommends that **DISCOVERER**, Oracle's End User Reporting and Graphical Presentation Tool, be used for end user reporting. The Administration Layer and one Desktop Edition license is included in the Internet Developer Seat quoted above. Additional end user Desktop Edition licenses are $600 each. Annual maintenance is $250 for each end user supported. Both High Line and Oracle provide training on this tool.

We are including the cost of 10 Discoverer Desktop Edition licenses is our costs, totaling **$6,000** for the license and **$2,500** for annual maintenance.

1.4 Custom Programming

During our Implementation Planning Session we reviewed the City of Sunnyvale's requirements and determined the features that will be implemented and the tasks that must be included during the implementation. We assigned responsibility for all tasks possible. There were a few items that we felt that the implementation team would have to make decisions on whether the standard features in P2K would address their requirements, and we have identified decision points on these in the implementation time line. The following are the items we identified as High Line's responsibility, and the estimated time and cost.

Item	Estimated Time	Estimated Cost
Custom Check/Direct Deposit Form (minor changes to standard program provided)	5 – 10 days	$4,500 - $9,000
MICR Cartridge (for 1 – 5 PC licenses)		$850

There are several items that require decisions during the Implementation that may require additional programming, namely:

a) Custom Time Entry Form

b) G/L Interface File Tailoring

c) A/P Interface File Tailoring

d) CalPERS meets SUN requirements

e) Handling of 'Most Charged OCA's' and 'Additives'

f) Check Reconciliation approach

Based on this, High Line is recommending that the City set aside a custom programming fund of 160 hours of programming at a cost of $18,000. The City will provide specifications to High Line for any custom programming required, and High Line will provide a quote based on the specifications. High Line will not proceed with any programming in excess of the amount budgeted, without the City's approval.

1.5 Additional Services

The standard rates for additional services are:

Resource	Standard Hourly Rate
Project Manager	$150
Senior Consultant	$125

Technical Consultant	$125
Consultant	$112.50
Programmer/Analyst	$112.50

1.6 Travel Estimates

High Line has agreed to cap the travel costs at $15,000 for the services included in this proposal.

2 Five Year Cost Summary

The following represents a five year cost summary, based on the information provided in Section 1 above.

Item	1st Year	2nd Year	3rd Year	4th Year	5th Year	Total
One Time Costs						
Required Personality Modules	$0	$0	$0	$0	$0	$0
Personality Upgrade Fee	$20,000	$0	$0	$0	$0	$20,000
Personality Feature Software	$5,000	$0	$0	$0	$0	$5,000
Discoverer Licenses	$6,000	$0	$0	$0	$0	$6,000
Custom Programming	$9,850	$0	$0	$0	$0	$9,850
Implementation Costs	$104,400	$0	$0	$0	$0	$104,400
Travel Costs	$15,000	$0	$0	$0	$0	$15,000
Total One Time Costs	**$160,250**	$0	$0	$0	$0	**$160,250**
Ongoing Costs						
Personality Maintenance[1]	$13,970	$14,669	$15,403	$16,173	$16,982	**$77,197**
Discoverer Maintenance[2]	$2,500	$2,500	$2,500	$2,500	$2,500	**$12,500**
Total Ongoing Costs	**$16,470**	**$17,169**	**$17,903**	**$18,673**	**$19,482**	**$89,697**

Additional Cost Considerations						
Custom Programming Contingency Fund	$18,000	$0	$0	$0	$0	$18,000
Grand Total	$194,720	$17,169	$17,903	$18,673	$19,482	$267,947

[1] We have used a 5% increase factor as an estimate of the annual increase in maintenance fees. High Line commits that annual maintenance fee increases will not exceed 5% or the CPI, whichever is higher.

[2] This cost is determined by Oracle, and is not within our control.

All prices are quoted in U.S. dollars, and are valid for a period of 90 days.

3 Project Assumptions

1. The Implementation Plan Report details the commitments on the part of High Line Corporation and the City of Sunnyvale. Any items not disclosed to High Line or documented in the planning Implementation Planning Report, are out of scope.

2. The majority of the work on this project will be performed onsite at the City of Sunnyvale.

3. The City key executives leading the project will serve on a Project Steering Committee, which will meet once a month.

4. The City employees identified to fill the roles specified, or employees with similar skills and experience will be committed to the project as documented.

5. The City IS personnel will provide the necessary support to the Project Team including, but not limited to, network management, hardware installation management, security, DBA support and data backup and recovery.

6. The City will procure the software and hardware provided by vendors other than High Line directly from such parties. This is also true for the services related to the implementation of these products.

7. The working area for the Implementation Team will contain the required resources and comfort levels for them to satisfactorily meet time deadline and quality requirements. Examples of required resources include multiple phone lines, analog lines, private workstations, printers, whiteboard